UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
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UNITED STATES OF AMERICA,

v. 23 Cr. 151 (PAE)

DO HYEONG KWON,

Defendant. Conference

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New York, N.Y.
January 8, 2025
10:35 a.m.

Before:

HON. PAUL A. ENGELMAYER,

District Judge

APPEARANCES

EDWARD Y. KIM
Acting United States Attorney for the
Southern District of New York
BY: JARED LENOW
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CHRISTOPHER MOREL

(In open court; case called)

THE DEPUTY CLERK: Counsel, please state your appearance for the record.

MR. LENOW: Good morning, your Honor. Jared Lenow for the government. I am joined at counsel table with my colleagues Kimberly Ravener and Andrew Thomas.

THE COURT: Good morning, Mr. Lenow.

Good morning, Ms. Ravener.

And good morning, Mr. Thomas.

MR. FERRARA: Good morning, your Honor. From Hecker Fink, Michael Ferrara for Defendant Do Hyeong Kwon, who is standing to my left. I am joined by my colleagues Christopher Morel to my right and Andrew Chesley.

THE COURT: Good morning, Mr. Ferrara.

Good morning, Mr. Morel.

And good morning, Mr. Chesley.

And, of course, good morning to you, Mr. Kwon.

THE DEFENDANT: Good morning, sir.

THE COURT: Apart from counsel, good morning to court staff and to members of the public and to the members of the district's press room, who I understand are auditing via the live feed from here to there. I wish all of you a Happy New Year.

This is our initial conference in the case and there is a lot of ground to cover and a lot of topics to cover, and

in the interest of an orderly discussion, I want to set out for you the sequence in which I would propose our discussion follow.

At the outset, I have a few obligatory disclosures about my prior interactions with counsel. All or virtually all of the counsel who have appeared in this case are known to me having appeared before me. So I can say from experience that both parties are exceptionally well represented and it's an honor for me to have such suburb lawyers appearing in my courtroom.

Beyond that, first of all, as to the defense, although he is not here, a word about Mr. Patton. In my capacity as chair of the Southern District's Criminal Law Committee, I met or otherwise interacted fairly extensively with Mr. Patton when he was the head of the Federal Defenders office, and we took up issues of mutual interest. He also came by for a social visit with me and my law clerks when he was leaving that role a year or two ago.

At the government table, for each of the past two years I have been a guest speaker at one session of the Columbia Law School class that Mr. Lenow teaches for students who are fall term externs at the U.S. Attorney's Office.

Counsel, I noted that Danielle Sassoon had entered a notice of appearance, but my deputy tells me that may have been an error. Is she on this case?

MR. LENOW: Judge, she was assigned in the past. She is no longer working on this case.

THE COURT: So no disclosures needed there.

That, then, is the extent of my dealings with counsel. I put all that on the record, as I always do, purely in the interest of transparency.

With that, as to the sequence today, first of all, I am going to be asking the government for a history of this matter, including the sequence of indictments, the extradition process, and so forth. Some of this and some of the other material I will be asking for is covered in the government's helpful letter of last night, which is docketed at Docket 15, but I think it's valuable to have a one-stop shop in the form of a conversation in open court today.

Second, I am going to ask the government for a narrative summary of the charges and, importantly, the conduct underlying them. I am just eager to get a better understanding of the case.

Third, I will ask the government to summarize the Rule 16 evidence and the manner and timetable in which it will be produced, not only to defense counsel, but how that discovery as a practical matter will be made available to Mr. Kwon.

Fourth, I am going to ask the government to identify any searches or seizures or other investigative steps that by their nature may be fodder for a potential suppression motion,

meaning not just searches and seizures, but identification procedures, post-arrest statements, and the like.

And, defense counsel, I do this because my practice at the second conference in a criminal case is to ask the defense to identify any suppression motions that it reserves the right to make, and to do that, the defense has to be aware of the searches and seizures, etc. that took place. That doesn't mean we would then proceed right to a suppression litigation, depending on the trajectory of the case it may or may not make sense to front-load that, but I want to at least have a defined universe of the suppression litigation that has been reserved.

Fifth, I will take up the government's motion with respect to victim notification, which I understand to be unopposed.

Sixth, I will put on the record the obligatory Rule 5(f) disclosure, joining Judge Lehrburger who I understand did one of his own a few days ago.

Seventh, I have a substantial list of largely substantive questions for counsel about the case that may or may not have implications for the schedule through to trial. This is sort of a grab bag of a variety of questions, some drawing on the fact that there was a somewhat parallel civil litigation last year.

Eighth, and relatedly, I am going to ask counsel for your assessment at this early stage of pretrial motions that I

can anticipate beyond the usual motions *in limine* and 404(b) and this sort.

Ninth, I want to take up with counsel the trial date.

Tenth, I want to set a next conference date, and I will entertain a motion for the exclusion of time until then.

Last, in case somehow something has been left out, I will open the floor to counsel to raise any issues of importance to you.

So that's our sequence.

With that, Mr. Lenow, will you be taking the lead for the government?

MR. LENOW: Yes, for today at least, Judge.

THE COURT: Very good.

So, with that, I welcome a history of the matter.

MR. LENOW: So, Judge, I will start with the procedural history, which I think your Honor asked for first.

Mr. Kwon, an unsealed indictment was returned against him, an original indictment in this matter, on or about March 23, 2023. So almost two years ago now. This past New Year's Eve, on December 31, 2024, Mr. Kwon was extradited from Montenegro.

I should note, just to back up a second, on that March 23, 2023 date, Mr. Kwon was arrested on local passport fraud charges in Montenegro, seeking to travel from Montenegro to another country in the Middle East. And the false documents

were discovered, he was arrested, and there were local criminal proceedings in Montenegro that ended up being resolved. And then in parallel with that, there were extradition proceedings going on around the same time, stemming from an extradition request that the U.S. government made shortly after the March 23, 2023 indictment was returned.

THE COURT: Let me see if I have this right.

So the indictment is returned on March 23, 2023. The initial developments in Montenegro involving the arrest don't actually stem from an extradition request; it sounds like that came a little bit later.

MR. LENOW: At least not an extradition request from the United States.

THE COURT: So all of that drama is independent of this case.

MR. LENOW: Judge, in some ways it is and some ways it isn't. I think the evidence will show that the attempt to leave Montenegro to go to this other country in the Middle East, that does not have an extradition treaty with the United States, we believe is relating to the fact that there were ongoing investigations in multiple jurisdictions, including the United States. But in terms of that immediate date and that immediate arrest, there is no close tie between those topics, but I think more on a broader-based level, it's out contention that the attempt to leave Montenegro was part of a broader

effort to evade law enforcement.

THE COURT: Was it publicly known or reported that there had been a U.S. investigation into these matters as of the time that Mr. Kwon attempted to leave Montenegro?

MR. LENOW: Yes, Judge. We had, in fact, engaged directly with Mr. Kwon's criminal counsel at the time, prior counsel separate from the Hecker Fink law firm.

THE COURT: When was it, if you recall, that Mr. Kwon or his counsel would have become aware of the extradition request and the indictment that underlay it?

MR. LENOW: Judge, the indictment followed from the local arrest. So, in other words, the local arrest occurred in Montenegro and our indictment and the extradition request followed in the days after that.

THE COURT: In other words, on or about late March 2023, Mr. Kwon would have been aware of the content of the initial indictment in this case.

MR. LENOW: Yes, Judge. It was returned in an unsealed format. So on the same date of the local arrest in Montenegro, an unsealed indictment was unsealed here, and then we quickly followed up with an extradition request to Montenegro.

THE COURT: Very good.

The superseder was returned when?

MR. LENOW: The superseder was unsealed on

January 2nd. It was returned a number of months before that date, but it was unsealed on January 2nd of 2025.

THE COURT: And he has been arraigned on the superseder?

MR. LENOW: Yes, Judge. On the same date that the superseder was unsealed, on January 2nd of this year, Mr. Kwon was arraigned on both the original indictment and the superseding indictment before Magistrate Judge Lehrburger in this district.

THE COURT: Has time been excluded up until today?

MR. LENOW: It has, Judge.

THE COURT: Defense, anything on the history of the case?

MR. FERRARA: Your Honor, it obviously will not surprise your Honor that we contest some of the inferences drawn, etc. in Mr. Lenow's account there. I just don't want the Court to leave with the idea that -- yes, this has been going on since March of 2023. There was an SEC civil trial, maybe you will ask about that.

THE COURT: I will.

MR. FERRARA: Mr. Kwon has been detained in Montenegro since March of 2023. And I just don't want your Honor to leave thinking that we have been, therefore, in regular contact with him. That would mislead the Court into thinking that we are further along with him than maybe we are. He had Montenegro

counsel. We certainly visited him, and we had other means of communication, but as your Honor might imagine, it was intermittent, it was difficult to speak with him.

So, if we are in a position to ask at the end of this for more time, etc., I just want your Honor to have the context that, yes, we have known and worked with Mr. Kwon for some time now, but we are just really with him in person for substantial periods of time to work on this.

THE COURT: That's helpful context. Thank you.

If I may, when did you begin the representation?

MR. FERRARA: March of 2023.

THE COURT: Later on, I will have some questions, really getting at I think what you're driving at, which is the extent to which defense counsel has been able to engage with the content of the charges and the discovery, including by means of the civil litigation, but there will be a time for that. In any event, I appreciate the alert.

MR. FERRARA: Thank you, your Honor.

THE COURT: Next, the nature of the charges.

Mr. Lenow.

MR. LENOW: Yes, Judge.

So, on a very big-picture level, our allegation is that this case is about a massive and highly sophisticated fraud that resulted ultimately in over $40 billion in losses to investors and users of Mr. Kwon's products.

I want to step back and just talk about the representations that were made by Mr. Kwon and then speak to why those were not true, why they were false.

So, Mr. Kwon, between the time frame around 2018 and 2022, was a senior executive at a company called Terraform Labs, which he cofounded. And Mr. Kwon promoted himself, and was promoted by many others in the blockchain and cryptocurrency world, as a visionary. There were many products in blockchain technology and cryptocurrency that would involve just a coin or a token, in other words, a unit of exchange or value that didn't have any other purpose apart from having value. And the novel and unique thing that Mr. Kwon promoted about his product was, he wasn't just promoting a Bitcoin or something like that, he was promoting this entire constructed financial universe. Terraform, that had its own Terra blockchain, would have its own bank, it would have its own money payment system, its own currency, its own stock market, its own savings bank, and dozens of other applications that sat atop a Terra blockchain, and made this not just a token or a coin, that might have some value, it might not, depending upon people's perception of it, but it was part of a giant ecosystem. And this set Mr. Kwon apart from many other entrepreneurs in the space.

And, in particular, Mr. Kwon promoted his company as being at the cutting edge of what is known as the DeFi

movement, decentralized finance movement. And the motivating philosophy here is that, rather than having some centralized player, a central bank, a federal reserve, large banks, a government control the system, this would be a sort of utopian vision in which economic incentives in the free market and a decentralized base of users controlled the products and systems in this world that he envisioned. And this was a very appealing prospect. A lot of investors and users had been looking I think for some time for a broader vision of how blockchain and cryptocurrency could have value, could have a real future, as opposed to just being Bitcoin or something like that. And so this was an enticing vision and billions of dollars flowed in from investors and users.

THE COURT: Pause on that.

Mechanically, how would an investor invest?

MR. LENOW: Sure.

So, principally, through purchasing the cryptocurrencies that were created and issued by Terraform.

So, this wasn't a scenario in which equity in Terraform was sold to investors. Mr. Kwon and his cofounder, in large part, controlled all of the equity in this company, substantially for all of the time period we are talking about. So this wasn't a company like Apple where people were buying stock in a company. You would invest in this broader system by purchasing the tokens or coins at issue. And the principal

token that you would invest in was called LUNA.

There were a bunch of other tokens that were created alongside LUNA, but LUNA was the core of it. And the idea was, if you invested in LUNA, because of the connections that LUNA had in the system, and how it could be exchanged for other assets, as the system grew and gained in value, the value of LUNA would grow. Alongside LUNA, which was designed to change in value depending on market conditions, go up if things became more valuable, Mr. Kwon and his colleagues traded a number of things called stablecoins. These other coins were designed to remain stable in value, in contrast to LUNA which the hope by everyone was it would be go up and up and up, which it did for a period of time.

So, to invest in the system, you would principally invest by purchasing LUNA tokens, which you could get directly from Terraform Labs or one could purchase on the open market. And there are other ways one could invest in the system, but that was really the principal way.

So, that is the vision that Mr. Kwon promoted. Now let's talk about the reality, as we allege at least.

Behind the scenes, we allege in the indictment, a number of core systems in this Terra universe did not function as advertised; they were Potemkin villages. And it wasn't just one system or one product or another, it was a number of core facets or systems or products, and we allege at least five core

categories in our indictment. They are often variations on the same theme, though, which is Mr. Kwon advertised, as we allege, a product that operated, according to his utopian vision, a decentralized finance, incentives created this robust stable functional product, but behind the scenes it didn't work and he had to tinker with it and manipulate functions behind the scenes to create the illusion of a functioning system.

This, as I mentioned earlier, this was a very successful course of conduct. Billions of dollars flowed in from institutional investors as well as retail investors around the world, in the U.S. and South Korea and a number of other countries. And I will just give several examples of kind of the variations of the theme I mentioned earlier.

One core deception we allege is that Mr. Kwon's stablecoins did not remain stable by virtue of the advertised system. In other words, the stablecoins were not backed by dollars or Treasury Bills or some other asset, which is true of many cryptocurrency stablecoins; there was this sort of algorithmic stream of elements. Their value was to be maintained by a combination of essentially computer code and economic incentives. And we allege that there is one incident in which the stablecoin UST, pegged to the U.S. dollar, dropped below, down to around 92 cents or so, and there was a danger of a death spiral. And Mr. Kwon worked with an outside firm, a high-frequency trading firm, that pushed the coin back to a

dollar, and then afterwards claimed to the world that this had been an example of the successful operation of his decentralized vision; the computer code and economic incentives had successfully restored the stablecoin.

And one other variation on this theme, I mentioned there was a stock market that existed in Mr. Kwon's constructed financial universe called Mirror. And Mirror, similar to stablecoin, the assets were supposed to track the stock price. There was a version of Apple stock, a version of Tesla stock, and they were supposed to closely mirror, track those stock prices through decentralized means. This did not work. The prices would not have stayed in line with the prices of real stock prices but for the fact that there was behind-the-scenes monkeying around with the value and the prices and the trading in those markets.

So those are just two examples.

And ultimately, about a year after that incident I mentioned, where a trading firm intervened and the market helped prop up the stablecoin UST, there was another incident where UST began to depeg. This time, though, the market had expanded dramatically. The trading volume was many times what it had been in May of '21 when this earlier incident occurred. The market cap of the core tokens here were billions of dollars more than earlier. It was a much different animal and the system collapsed.

So those are some of the core aspects of the fraud.

I will note also that we allege that after this collapse of these cryptocurrencies in May of 2022, we allege that Mr. Kwon's misconduct and illegal activity continued. Among other things, he engaged in a public relations campaign that was deceptive and misleading, including lies to investors, as part of an effort to cover up his crimes, as well as to restart his company and kind of get a fresh start and get more investor capital; he engaged in money laundering, and caused others to engage in that activity as well; and he used illicit means to try to evade being held accountable for his crimes. Among other things, he was arrested with a fake passport in Montenegro trying to flee to a country that doesn't have an extradition treaty with the United States, and this is after his counsel had engaged in discussions with us and was clearly aware of the U.S. charges. Again, these are all allegations that we make in the indictment in this case.

I will pause there in case the Court has any questions there.

THE COURT: Big picture, how do the factual allegations you have set out track the nine counts in the indictment?

MR. LENOW: So, the first four -- I mentioned five categories of misrepresentations. The misrepresentations relating to the stablecoin UST, including the misstatements

after the May of 2021 event, those are covered by Counts Five, Six, Seven, and Eight. And the balance of misrepresentations are covered by Counts One through Four.

There is a ninth count in the -- let me just pause and back up. The original indictment in this case, from May of 2023, included eight counts. Those same eight counts are re-alleged in the superseding indictment; they are the same charges.

THE COURT: Any changes?

MR. LENOW: There are changes in the factual allegations. So the statutes, the counts are the same. There are changes in terms of there is more factual detail.

THE COURT: There's about 62 pages before you get to Count One.

MR. LENOW: That's one change.

THE COURT: How much of that preface is new?

MR. LENOW: Judge, the original indictment was a really bare-bones indictment. It didn't include that level of factual detail. It had no significant preliminary narrative. So all of that is new.

THE COURT: But the content of Counts One through Eight you're saying is effectively reproduced from the original indictment?

MR. LENOW: Yes. Same charges and the conduct we allege is overlapping.

THE COURT: And Count Nine is the one that is added by the superseder.

MR. LENOW: Yes. Count Nine, that is the new count in the superseding indictment, that's in addition to the eight original counts. As we note in our letter to the Court, Mr. Kwon was not extradited on that ninth count. He was extradited on the first eight counts: Two counts of commodities fraud, two counts of securities fraud, two counts of wire fraud, and two counts of conspiracy. And we do intend to seek a waiver of the rule of specialty from Montenegro.

THE COURT: I will be asking you about that. But thank you. That is very helpful.

Mr. Ferrara, I am assuming you're taking the lead for today. Obviously, no need for you to rebut, it's early days yet and that may not be in anyone's interest, but at the same time, I want to give you the floor if there is something you want to say.

MR. FERRARA: Your Honor, I appreciate that. I am certainly not going to rebut everything Mr. Lenow said. I think it's obvious to the Court we dispute a vast majority of what he just described. I worry, though, that, in terms of making a first impression, the government is making it sound as if this was all a big fraud, there was nothing to this, and that is just not the case. There was an algorithmic stablecoin. Mr. Kwon put thousands of hours into programming

this. It was quite a feat of ingenuity. There was a program. There was an algorithm.

What the government wants to suggest is that it was a facade, the idea that human beings and businesses had to invest in these products for them to have value was somehow unknown. That's not the way the world works. It was obvious. There was literature put out. If no one wants something, it's valueless. It doesn't matter what you have coded it; if know one wants to buy it, it's valueless.

So the idea was, yes, these coins were not necessarily backed by fiat, dollar for dollar, but that as long as people wanted to use this product and invest in this product, the algorithm would generally keep things stable.

So, it's just so important to us that the Court at least understand that there was a real product here. And, yes, at some point people got scared and they fled the product and prices crashed, etc. But that doesn't mean that there wasn't a very real algorithm, a very real code, that everyone understood needed human and business dollars to give value to it.

THE COURT: But to the extent that Mr. Lenow has previewed the government's case as turning on false statements or misrepresentations thereafter, not at the inception but, for example, as to the events that propped up the peg, if that's the right way to look at it, anything you want to say about that at this stage?

MR. FERRARA: And a lot of this came out at the SEC trial as well. We just don't think a lot of those were false. We think that, in order to make them false, you have to import this idea that people would not understand the comments through the lens of, if no one wants to put money into something, it has no value. In other words, investing 101. I am not even sure it's 101. The idea that, if people don't want to pay for something, it's valueless. All of the statements I think, in context with everything else that was put out, about how it worked and that there were investors, in context, our position is that it was not false.

THE COURT: Thank you.

Look, I appreciate it's early days and the last thing I want to do is make you feel compelled to defend the case when it's your first conference.

MR. FERRARA: I appreciate it.

THE COURT: I also wanted you to have the floor given the depth of the government's statement.

MR. FERRARA: As your Honor may imagine, this is a public proceeding, and we wouldn't want to leave the wrong impression with the Court that we sort of stand idly by and don't contest.

THE COURT: So moving on, then, to the Rule 16 evidence.

Mr. Lenow, your letter of yesterday was very helpful.

I do want to get into a little more detail.

Let's begin just by a summary of what it is and when you expect to produce it.

MR. LENOW: Of course, Judge.

So, let me just start with a few initial points. One is, in terms of timing, we have circulated a protective order with the defense, and we are working towards getting that finalized. Hopefully, we can do so in the next several days, and once that occurs our plan is to start producing discovery promptly.

THE COURT: Is there anything out of the ordinary about it?

MR. LENOW: No. There's one or two clarification points that we are just working through, but I think that it should be straightforward and it shouldn't be a problem.

THE COURT: As soon as I get it, I will sign it.

MR. LENOW: Judge, in terms of the categories, there's over six terabytes of materials that we intend to produce, putting aside electronic devices. So the amount of content here is massive, it's very significant.

Around six terabytes or so that is productions from various parties——Terraform itself, its business partners, current or former employees. That makes up a large amount of the data, electronic communications, e-mail, Slack, things of that nature. Voluminous trading data, I referred earlier to

various market activities, including in Terraform cryptocurrencies. So there are significant amounts of trading data from both business partners and directly from cryptocurrency exchanges. And then a number of the categories include, we have productions from other government entities, the SEC, the CFTC being two examples. There are the sorts of third-party service provider discovery that we see in many cases——phone companies, social media companies, things of that nature. And there is also publicly available material that we have collected——blog posts, video statements from Mr. Kwon, things of that nature.

And I do note that there are recordings of Mr. Kwon that are not public, that were provided by various entities or individuals that had dealings with him. There were some recordings, our understanding is, where others recorded Mr. Kwon unbeknownst to him, but at the behest of the making of that recording. These were not at the direction of the government, but those recordings are part of the discovery as well.

I will pause there.

I will say one more thing, actually, Judge. Your Honor flagged the issue of search warrants so I will deal with that here as well. There are search warrants of electronic accounts, such as social media accounts, one of which belonged to the defendant, a Twitter account, a number of e-mail

accounts on which we obtained search warrants, several that we believe were used by the defendant, and there is also code repository databases upon which we executed search warrants. That's one bucket.

We have obtained four cell phones that were in Mr. Kwon's possession. We obtained those in connection with our dealings with Montenegro. These were devices that were either taken from Mr. Kwon at the time of his initial arrest or were obtained later on. For example, when Mr. Kwon was extradited, he had a cell phone in his possession as part of his personal property, we have obtained that. We have obtained search warrants on those four devices.

So we have the electronic account search warrants. Then we have the cell phone search warrant as well. So that's the universe of warrants that we are talking about here.

In terms of the cell phones, these were warrants that were just obtained, so they have to go through the process of being extracted, reviewed. And just in terms of a timeline, we anticipate there will be privilege issues, there may be foreign-language issues, there may be encryption issues.

THE COURT: Is that limited to the phones or is that a broader point?

MR. LENOW: That is certainly the case as to the phones. There are a very large amount of foreign-language materials in this case, a lot of materials that are in Korean.

And there were also privilege issues that we encountered and used a filter team to address with respect to our search warrants and some other investigative avenues. So those issues certainly are popping up in terms of the devices. They have also popped up more broadly.

So, that's a summary of the discovery. In terms of timing, we are working quickly to assemble this material. I think we are going to be in a position to produce the vast majority of it in the next six to eight weeks. That timing is dictated in part by the fact that, because of the volume, there are vendor processing times that are associated with productions that are out of our control, but we believe in that timeline we will produce the vast majority of it. And I think in the next several weeks we are looking to produce a substantial amount of discovery. We have talked to defense counsel about producing the warrant affidavits, for example, as early as today once we kind of have the protective order nailed down.

So, the bottom line is, in light of some of these issues, including the foreign-language issues, the privilege issues, the recently obtained search warrants, I think our proposal would be -- we are going to move quickly on this, but we don't want to provide a timeline that is not realistic. So I think what we would propose is in the next 45 to 60 days providing the Court with an update. I think within that amount

of time we will have a very substantial body of production, and at that point we can identify for the Court any existing work streams that have proven tricky or ongoing that may take some more time.

THE COURT: Thank you. A lot to take in there.

Let me throw out a handful of questions bearing on this.

One question is, I am mindful that there was a civil case in which Mr. Kwon was a party, albeit in absentia. To what degree is the discovery that you are going to be producing to the defense coterminous to that and to what degree does it go beyond that?

MR. LENOW: Judge, the government doesn't have excellent visibility into what exactly the discovery was in that case. There was a lot that occurred in the SEC case that we have no awareness of, that we don't have those materials. So it's kind of difficult for me to opine on that. I can say, we did a broad review of our file, just to get a sense for how much material came from the SEC, and it's less than a terabyte.

So, there is around six terabytes of material we intend produce that we obtained independently of the SEC. And that may be overlapping because some of the topics were overlapping. For example, I mentioned there was a high-frequency trading firm that was involved in some of this conduct. That discovery, sent directly from the trading firm,

is very voluminous, in part because there is a lot of data. So I think there is probably going to be some overlap, and perhaps overlap of a lot of material, but there is also going to be a lot of material that is new.

THE COURT: That's what I am trying to focus on, because I am trying to approach this from the perspective of defense counsel and how much new material they need to absorb. So let me be a little more focused.

MR. LENOW: Sure.

THE COURT: The phones, for example, from Mr. Kwon's possession, to your knowledge, were the contents of that available to the parties in the SEC case?

MR. LENOW: No.

THE COURT: The surreptitious, if that's the right word, recordings of Mr. Kwon, was that part of the SEC case?

MR. LENOW: Some, but not all.

THE COURT: The various search warrants that you have cited, other than as responsive to the questions I have just asked, to what degree, to your knowledge, was that material part of the SEC discovery?

MR. LENOW: I believe some of it, but a minority amount. For example, I mentioned code repositories. That is one area where I think the SEC did have those materials, so I assume they were produced in discovery, and they would have been accessible to the defense. And I should caveat that only

by saying, the electronic devices were unavailable to the SEC, these were Mr. Kwon's phones. So I can't speak to whether he or Terraform had access to them. But on the government's side, to my knowledge at least, the SEC side did not have access to those electronic devices, nor did they receive from us the vast majority of the search warrant materials.

THE COURT: A lot of what you're saying is to suggest the answer to what I am about to ask you, but it sounds as if you are treating the SEC as not, if you will, part of the prosecution team from a, for example, *Brady* or Rule 16 perspective. Am I reading you right?

MR. LENOW: Yes, Judge.

THE COURT: So, by what means did you obtain material from the SEC?

MR. LENOW: Judge, we submitted access requests to the SEC, at various points in time, and received materials in response. Our overlap with the SEC, though, Judge -- let me answer your question at least at a high level, and I am happy to answer any follow-ups, of course.

To the extent this is part of motion practice, I will say, broadly, our overlap with the SEC was a relatively small slice of time. As I understand it, the SEC had an investigation into Mirror Protocol that predated the crash of UST and LUNA where we were not working in parallel with them. We did do a number of joint interviews -- not joint, but

interviews where there was both SEC and SDNY personnel in the room for a period of time, but that ceased after the charging of the SEC case. So there were many, many interviews, for example, in this case that were done by our office where SEC personnel were not present.

So, there was some period of time where we were in communication, working in parallel with the SEC, but there were vast amounts of time where that was not the case.

THE COURT: But your representation is that there wasn't a systematic working with the SEC so much as jointly appearing at, for example, some interviews?

MR. LENOW: If I understand your Honor's question, let me just respond with a little bit more -- I want to be precise here.

Our office, and we followed this practice in this case, when we work in parallel with another agency, we oftentimes do interviews where everyone is present at once so as not to subject someone to the same interview two or three times. So we followed this procedure for a period of time and were working in parallel with the SEC.

I guess my broader point is, there was substantial amounts of time when the SEC was doing interviews without us being present, or perhaps even knowing about the interview occurring, and vice versa. So there was a slice of time sort of in the middle, I will refer to it as, where there were

interviews occurring where we were doing them in the same room.

My point is, your Honor has seen a number of cases where there have been parallel proceedings, where there was kind of an overlap of both entities or both agencies were open around the same time or being in the same room for interviews. My point is that this is not that case. It was different than many cases and there was unusually a lack of doing many things in parallel. So there was parallel proceedings for a defined and short amount of time.

THE COURT: Do you have the record of the SEC trial, not just what happened publicly but, for example, depositions or discovery that was exchanged there?

MR. LENOW: Judge, we made requests to Terraform and the SEC at various points in time. I believe we do have deposition transcripts. I think a majority of all the ones we have are from Terraform as opposed to the SEC. There could be some we received from the SEC. I want to check my records before I make a representation on that point. But we do have a number of those records, but I believe most or all of them were obtained from the company as opposed to the SEC.

THE COURT: Was Mr. Kwon deposed in that case?

MR. LENOW: I believe he was not deposed, Judge. I think there was a fair amount of litigation back and forth on this. I want to make sure --

THE COURT: I think we are about to get a

clarification.

MR. FERRARA: I can help with that one. He was not formally deposed, but he was subject to a Q and A by the SEC. I think they call it investigative testimony. So, for all intents and purposes, he sat down with the SEC and answered questions.

THE COURT: Was it the standard SEC investigative testimony that you're saying your client sat for?

MR. FERRARA: I want to say yes, your Honor, but for whatever reason I remember it being maybe a different word people were using. In any event, he sat down and answered a lengthy set of questions from the SEC. It smacks as a deposition in every other way.

MR. LENOW: I should clarify. I mentioned that there was an SEC investigation into the Mirror Protocol that predated the crash of UST and LUNA. My recollection is that there was either an interview or a deposition or something like that from that time frame. In connection with the post-crash matter and trial, my understanding is that there were attempts made by the SEC to depose Mr. Kwon in Montenegro, and I don't believe that ever occurred.

So, I think there are these different buckets where there is -- again, obviously, Mr. Kwon's counsel will know this better than I would, but there is some kind of record of an interview with the SEC, but the attempts to have Mr. Kwon

deposed in connection with the trial were unsuccessful.

THE COURT: Okay. I think you have alluded to other investigations by other foreign authorities. What are they and to what degree do you have the fruits of those?

MR. LENOW: Judge, I think it is public that South Korea has an investigation in this matter. I can't, at least sitting here today, think of any substantive materials that we have from those authorities. I don't believe we have investigative fruits from foreign authorities. I did mention that we have these four cell phones that were provided in connection with the extradition from Montenegro. So we do have some materials from Montenegro in that respect.

THE COURT: Are there any materials that you as of yet have been unable to access, as we have sometimes have in foreign seizure cases?

MR. LENOW: I don't have an answer yet on whether the phones have encryption that we cannot bypass. I will say that there are concerns, as there always are. We just got these warrants, I believe it was yesterday.

THE COURT: I misunderstood. I thought you had the phones for some time.

MR. LENOW: No, Judge. There was one phone we just obtained in connection with the extradition, and there were three phones we obtained a matter of weeks before that. So these are four phones we have only come into possession of in

the last month or two.

THE COURT: So, at this point, you really have no visibility into even the volume, let alone the value of what is in the four phones.

MR. LENOW: That's correct.

THE COURT: I see. Okay.

MR. LENOW: We have come across some encryption issues non-device related in our investigation. There are keys to wallets that seem to have been lost, for example. There are electronic accounts, as we understand from the company, they say they have not been able to access. So these issues have popped up in some other ways. But the big issue here, and I assume your Honor is asking this with respect to discovery, the four phones are the big question mark, but I think we hope to have a handle on that in the next several weeks.

THE COURT: I have had this repeatedly in cases before me, which is the problem of the government coming into possession of a phone and, in effect, requiring a very different type of algorithm to be used to try to find the passcode, and there are cases where it's cracked early and there are cases where it has taken a long time, and that can be a challenge in terms of case management, for obvious reasons.

I assume, though, that the process of running those traps will get going forthwith.

MR. LENOW: Yes, Judge.

THE COURT: Without holding you to it, given the sheer volume of material here, and excluding the phones where you don't have any visibility into whether it is going to prove useful or not, what are the most important parts of this discovery, just thinking objectively as to what is likely to move the needle at a trial?

MR. LENOW: I think what I can say is that——and I will tie this to the indictment because I think that maybe is the most productive way to do this——substantial amounts of what is in the indictment are based on materials that came from Terraform Labs or its employees and business associates, and trading records from Terraform and its business associates and cryptocurrency exchanges. There are other categories of information, but I think that this is a case where those productions make up a substantial amount of what we cite in the indictment.

THE COURT: How significant are the recordings of Mr. Kwon?

MR. LENOW: Judge, there are multiple recordings. There is at least three or four. I don't want to give a number that is wrong. I can think of at least three or four sitting here today.

THE COURT: What you have described to me, and very ably, is a daunting amount of discovery. I want to hear in a moment from Mr. Ferrara. I am happy to set a soft deadline,

broadly consistent with what you are proposing, to get discovery done, with the understanding that something may slip and you are going to do your best. But, beyond that, I would like your commitment that you are going to try and front-load the stuff that matters most, based on your assessment of the case. And beyond that, just as a matter of collegiality, that you will give a heads-up to able defense counsel as to what you regard as wheat and what you regard as chaff.

And I say that in every case. In this case, there is more parity, in terms of an ability to understand the meaning of the discovery, than there usually is, both because of the ability of defense counsel and because they tried the SEC case so they get the narrative better. Still in all, the progress of the case will be immeasurably assisted if you could tick and tie and tag material as being consequential as opposed to something that you are obliged to produce but doesn't appear to be important.

MR. LENOW: Absolutely, Judge. I think the superseding indictment also provides -- it's obviously not all of our case, but it does provide a bit of a road map to a number of our core theories and views of what we believe at least matters. But of course we will do what your Honor suggested.

I was going to say something about the SEC case, but I will pause in case there are other issues to address.

THE COURT: No. In a moment I want to turn to Mr. Ferrara. I don't have any other questions about discovery. I had questions about the extent of things like foreign-language discovery and the extent of un-retrieved electronics, but you have covered all of that.

MR. LENOW: I think one other thing, you had asked about the SEC case, I think it's also relevant for discovery. I think we mentioned this in our letter but, as I understand it, the SEC case centered on, at least in terms of the alleged fraud in that case, kind of two out of the five categories of representations that we set out in the indictment in paragraph 2.

THE COURT: The peg and Chai?

MR. LENOW: That's right.

So, three out of the five kind of categories of misrepresentations, and it doesn't include money laundering and other post-arrest conduct that we have alleged, were not, as I understand it, at issue in the SEC case. So that's relevant both because there are communications, various individuals and players that may not overlap precisely, but, also, there is substantial amounts of data.

So, the operation of the Mirror Protocol, just to give you one example, is one of the five categories of misrepresentations, and we have conducted and will produce data on this point, but those markets and how the markets work and

the role of Terraform in behind-the-scenes meddling with them, that data is part of our allegations. And so it's not just a few more communications, it's also technical analysis and market data that the defense will be dealing with. And so that's one point.

THE COURT: Your point as to that is that's a narrative that the defense would not be familiar with at least by defending the SEC case?

MR. LENOW: That's my understanding, Judge.

And I mentioned there was an SEC investigation in the Mirror Protocol. My understanding, at least, of that investigation was the issue of whether -- it was something that had to do with whether this was a failure to register a security as opposed to being a deliberate deception or fraud. To my knowledge, the SEC never formally lodged any allegations about fraud in connection with Mirror. It was about whether this was a security that should have been registered. So I think it does appear to be a fundamentally different allegation.

THE COURT: It looks to me as if the SEC case broadly is a subset of this case.

MR. LENOW: That's right. Two out of the five categories of misrepresentations in our case were at issue in the SEC case. And even as to those two out of five that were at issue, we have substantial additional evidence beyond what

was at issue in the SEC case.

THE COURT: Let me ask you one more question and then I want to hear from Mr. Ferrara about discovery.

Mr. Kwon is in custody. Do you know where he is being held?

MR. LENOW: I do, Judge.

THE COURT: He is being held at one of the usual places.

MR. LENOW: Yes.

THE COURT: Is there going to be any challenge, given the nature of the discovery here, getting him practical access to the Rule 16 discovery?

MR. LENOW: We have raised with the defense the issue that we are happy to troubleshoot on the front any issues that do arise. We hope there is not, and we intend to do everything we can to make sure that isn't an issue. So we would propose having our update to the Court address any issues that pop up. All I will say is we are going to do everything we can to make sure it's a smooth process.

THE COURT: Is there any discovery that by its nature is problematic to have it accessible to a defendant outside the presence of his lawyers?

MR. LENOW: So, Judge, with respect to the vast majority of the discovery, the answer is no. There may be some disclosures that we make that we will have to give some thought

to that, but the short answer is no for the vast majority, perhaps all the discovery. However, a lot of the discovery in this case, in terms of size, is going to be trading data and things that, you or I looking at an Excel spreadsheet, might not have a tremendous amount of meaning.

THE COURT: Your part about me is absolutely correct.

MR. LENOW: I think we will work with the defense on this, and I am sure there is a way that Mr. Kwon can meaningfully participate in his defense.

I would note one other quick point. It is our intention to produce as much as we can in a format that is easily digestible, searchable by the defense. We may make productions at the front end that get to them quickly that is not fully digested by all these programs, but we are going to give them this in a format that's usable, electronically formated, loadable, for the most part. There may be some exceptions to this, just because of the format of the material, but we are going to produce this in what we believe is a very usable and searchable format.

THE COURT: Good to hear.

I know that I am preaching to the choir here, but I count on the U.S. Attorney's Office these days more than ever to be a force for good in assuring the practical access of an incarcerated defendant to discovery material. It has been a challenge, in particular, with one of the facilities at which

defendants are held these days. I will ask you, the moment you hear from defense counsel that there is a challenge of that nature, to take ownership of the process, working with the facility and figuring out a way to practically solve those problems. At the end of the day, I am available to issue orders and do what I can to break logjams, but my experience has been that the U.S. Attorney's Office intercession with the facilities tends to work.

MR. LENOW: Yes, Judge. That's our intent.

THE COURT: Mr. Ferrara, just focusing on Rule 16 evidence, anything you want to add?

MR. FERRARA: No, not a lot. I do want to just correct one thing for clarity. Whether you call it one interview over two days or two interviews, I think there were two days worth of interviews by the SEC of Mr. Kwon, and I think Mr. Lenow was right that the first day was primarily focused on Mirror stuff. I think the second day was more wide-ranging. There was also an interview by Singapore authorities at the SEC's request. So I will just flag that as well.

THE COURT: Is that material, to your knowledge, part of the discovery you expect in this case? You may already have it.

MR. FERRARA: I think we do. But I think it should be part of the discovery, nonetheless. Obviously, we are happy to

work with the government so they don't have to waste their time, but we want to make sure we have a good record.

THE COURT: I am going to be very receptive to everyone in terms of thinking about the implications of this massive discovery for the schedule, but to what degree is the foreign-language dimension of the discovery here, based on your familiarity with the case, likely to slow us down?

MR. FERRARA: It certainly will. And I appreciate Mr. Lenow flagging for the Court. We have had the superseder for less than a week.

THE COURT: I gather you had the first eight counts for well over a year and a half.

MR. FERRARA: We have always been focused on the Chai and the depeg allegations. Some of these are new allegations.

THE COURT: Did you not know before the last week or ten days of the gist of the government's allegations?

MR. FERRARA: I am not putting that on these folks. We worked with the SEC, against the SEC, for quite some time, and no one suggested that LFG was improperly --

THE COURT: No. But per Mr. Lenow, you had the charging language, in essence, Counts One through Eight, even if not the lengthy narrative that preceded it.

MR. FERRARA: We had One through Eight, but I don't know that we understood -- look, maybe I am just speaking for myself, if Mr. Lenow wants to correct me. I thought about that

through the lens of it's a Chai and depeg. It's not a speaking indictment.

THE COURT: I see. So the to-wit clause and whatnot you took really as focused on the theories of fraud that were litigated before the SEC.

Let me circle back a sentence or two. You understood the to-wit clauses, if you will, to capture the two theories of fraud that were litigated against the SEC?

MR. FERRARA: That is how I understood it. I can flip through it.

THE COURT: The point is, from your preparation perspective, you are starting close to ground zero with respect to the other three theories of fraud, is what you're saying to me.

MR. FERRARA: Yes.

THE COURT: Anything else you want to add with respect to the discovery process here?

MR. FERRARA: No, your Honor. I am conscious of the fact that your Honor is going to ask about motions. But given the unusual nature of this case, where we had a civil trial before this, I think the government should take a hard look at witness statements. I don't think this is the normal problems of witness safety or tailoring the defense, which I candidly have never understood why that's a problem, that's the whole idea. But I think those sort of go out the window, and I think

in the spirit of moving things along --

THE COURT: I'm sorry. You're making a comment about the Jencks Act material?

MR. FERRARA: Correct. It would help us understand the Rule 16 material better if we understood what some of the witnesses told the government.

THE COURT: Later in this conference we are going to be setting a schedule, and I will be happy to tee up for initial consideration the government's view on that issue. But it seems to me at this point the Rule 16, it sounds like we are going to be backing up a U-Haul to the Southern District and delivering it to you. In the first instance, I just want to make sure we have an orderly process for that.

Let me just take up the issue of suppression topics and then we will take a comfort break.

Mr. Lenow, listening to you, it sounds as if, with respect to searches undertaken by U.S. authorities, just bracket it that way, it doesn't sound like there are any searches or seizures by U.S. authorities that were done without a warrant; is that correct?

MR. LENOW: Judge, I believe that's correct.

THE COURT: And you have summarized it here, but you can set out by letter a list of all the warrants for the defense so that they will be on notice as to what warranted searches or seizures they might want to move against?

MR. LENOW: Yes, Judge, of course.

THE COURT: Turning to identification procedures, it doesn't feel like that type of case. I take it nothing like that was used here?

MR. LENOW: That's correct, your Honor.

THE COURT: What about searches or seizures by foreign authorities? You have mentioned, for example, the receipt of phones in Montenegro. Are there searches or seizures -- I don't even know if warrant is the right question to ask. Were there warrantless searches or seizures abroad?

MR. LENOW: I think what we can say is, we don't have the fruits of any search that I am aware of that was done by foreign authorities.

THE COURT: I thought the phone was taken in the context of the extradition. Wasn't that a seizure?

MR. LENOW: Our understanding and my understanding, at least, is three phones, and perhaps other devices, were seized from Mr. Kwon and one his compatriots when they were seeking to leave Montenegro. In the last several months, three of those cell phones were provided to us, and we obtained a search warrant on them. I can't speak to whether Montenegro was able to obtain anything from those phones. But what I can say to you is --

THE COURT: Sorry. It sounds like the physical contraption that is the phone was seized incident to arrest,

and you thereafter got a U.S. search warrant permitting you to get at the contents. But I am getting at the actual seizure of the thing. It sounds like, as a formal matter, there may have been a warrantless seizure of the phone.

Look, I am not commenting on what the legal consequence of any of this is.

MR. LENOW: You're absolutely right. You're correct.

THE COURT: Is there anything else that foreign authorities got here?

MR. LENOW: Judge, I don't actually have a complete and perfect picture into what was seized by Montenegro. I think it is possible that there were other papers or items seized incident to arrest. I think there were also electronic devices that we do not have that were seized by Montenegro.

THE COURT: My concern is just bracketed by what you have in your possession, custody and control, what you're producing. And what I would like you to do is set out in a letter for the defense, and file it on the docket of the case, any evidence that essentially was the product of investigative techniques by foreign law enforcement. Again, there are a variety of issues here, including the application or not of the Fourth Amendment to events like that. I am not prejudging the outcome of it. I just want to make sure that there is a common understanding among the two tables as to what of your evidence came from investigative techniques like that, just so that Mr.

Ferrara and his team can make a knowledgeable determination of whether there is any value to a suppression motion.

Mr. Ferrara.

MR. LENOW: Can that include witness statements, your Honor?

THE COURT: Let me ask you this, Mr. Lenow. To the extent that you may have witness statements taken by foreign authorities, would you be treating that as Rule 16 or as *Jencks*?

MR. LENOW: Judge, I believe we would treat that as *Jencks*, although I want to give that some more thought. I understand your Honor is considering this with an eye towards suppression material.

THE COURT: That's the spirit of the question.

MR. LENOW: So, to the extent we have any statements of the defendant, we would turn those over as *Jencks*. In terms of other --

THE COURT: I'm sorry. You would turn those over --

MR. LENOW: As Rule 16. I'm sorry. We would turn that over as Rule 16.

To the extent that there are witness statements from other individuals that foreign authorities obtained, I can't conceive of a suppression issue there.

So, in terms of this bucket of making sure that the defense is aware of any possible facts that they could use to

suppress materials, I don't think it would apply beyond Mr. Kwon's own statements, but I could be missing something.

THE COURT: Here's the thought. I am not resolving anything today. I just want to make sure the defense is on notice at a macro level of what you have.

So, it's enough for you to alert the defense that you're in possession of witness interview statements taken by the following authorities, and the defense will do what it is going to do if it wants to tee that up to be litigated. I just don't want to have a situation where late in the day in this case the defense pops up and says, wait a minute, we are now getting, perhaps at the *Jencks* Act stage, material that we think was susceptible to a plausible motion to suppress. It may be that there's no viable legal doctrine that the defense could invoke, and it may be that this can be litigated without their having the content of what the statement is, but I want to make sure they are on notice just so that, if there is a motion like this to be made, we get it identified early.

MR. LENOW: Understood, Judge. We will do that.

MR. FERRARA: Your Honor, I want to say, I appreciate the Court's intention there. I guess what I am trying to get at is, there is going to have to be discovery into the discovery. We can't know if a witness statement is suppressible unless we understand the circumstances. There is definitely law about involuntary witness statements being

impermissible in various contexts.

THE COURT: But if the statement isn't being offered at trial, and if it is part of discovery, what is the value of the motion?

MR. FERRARA: That's fair, your Honor.

THE COURT: At the end of the day, I appreciate that you're seeking by any means possible to gain access to the content of the statement. I would be if I were where you are too. But at the end of the day, as it relates to suppression, if ultimately we have a hearsay interview statement that is not going to be capable of being offered at trial, unless there is some fruit-like theory here, and there is a major standing problem at the jump, I am not sure this is going to be fit into a suppression box.

MR. FERRARA: How about the circumstances of the seizure of the phones and how the phones were maintained over the course of -- I am flagging, your Honor, I think that's discovery into discovery, and I think it's permissible and appropriate here.

THE COURT: We will reserve on that. For the time being, I am just trying to issue spot categories so that you are well armed to do what you are anticipating doing, which is litigating these. All I want to do is make sure you know what the universe is out there, and you will do with it what a skilled lawyer does with it.

MR. FERRARA: Thank you, your Honor.

MR. LENOW: I will just say more broadly we intend to engage in a dialogue with the defense on these topics. And even if there are things that are not covered by Rule 16, we very well may be willing to provide them voluntarily or out of an abundance of caution. So I think the benefit of providing the Court with an update in 45 or 60 days is not only that you will see our progress, which I hope will be substantial, but I think we are going to work productively and we will be able to narrow down areas of disagreement.

THE COURT: Great. I agree.

Look, I do hope you will approach the conversations with the defense in that spirit, notwithstanding the defense's unusual familiarity with the case relative to most initial conferences. There is a lot of material that's about to fall in on them, and we will talk a little bit later after the break about a trial schedule, but anything that can be done to expedite the defense's digestion of the material here is all for the good.

All right. The final topic as part of the suppression topic just involves statements of the defendant. Other than the investigative deposition from the SEC, are you aware of any statements by the defendant to law enforcement?

MR. LENOW: Judge, Mr. Ferrara's mention of the statements to the SEC, and also, I think there are foreign

authorities that took some information at the request of the SEC. Those are the two that I am aware of. And there are, of course, Mr. Kwon's public statements. Those are the statements I am familiar with sitting here today.

THE COURT: If you become familiar with anything else, put it in writing to the defense and the Court just so that we are all aware.

We are going to take a five-minute comfort break. I will ask the people in the audience to let counsel go first, if you're using the restroom, because we have got some more ground to cover and I have got a hard stop a few minutes before 1.

When we resume, we will pick up the sequence as I advertised it.

(Recess)

THE COURT: We will turn now to an easy subject, the government's motion with respect to notice to victims.

Defense, I take it you don't oppose by signing the proposed order?

MR. FERRARA: No objection.

THE COURT: Government, I will be signing that order today.

Next, I know Judge Lehrburger covered this, but I think by statute the district judge is required to do the same too.

So, just very briefly, I am notifying the government

pursuant to the Due Process Protections Act and Rule 5(f) of the following:

I direct the prosecution to comply with its obligation under *Brady v. Maryland* and its progeny to disclose to the defense all information, whether admissible or not, that is favorable to the defendant, material either to guilt or to punishment, and known to the prosecution. Possible consequences for noncompliance may include dismissal of individual charges or the entire case, the exclusion of evidence, and professional discipline or court sanctions on the attorneys responsible. I believe Judge Lehrburger has already entered a written order more fully describing this obligation and the possible consequences of failing to meet it. I direct the prosecution to review and comply with this order.

I know the answer to this question is yes, but does the government confirm that it understands its obligations and will fulfill them?

MR. LENOW: Yes, Judge.

THE COURT: Next, I have a handful of questions that are to some degree prompted by the helpful discussion we have already had.

There is the issue that has come up about the scope of the extradition and the rule of specialty.

Mr. Lenow, how is that going to work with respect to Count Nine? What is the process from here? I have not had

that in a case.

MR. LENOW: So, Judge——and I may have mentioned this earlier, apologies if this is repetitive——Mr. Kwon was extradited on the first eight counts in the original indictment, the same eight counts as in the superseder. He was not extradited on the ninth count. The U.S. intends to seek a waiver from Montenegro. And the process we would propose to follow is we will keep the Court updated on the status of that. I think that was the approach that was followed in the *Sam Bankman-Fried* trial, where a waiver was sought with respect to additional charges from the Bahamas, and I think Judge Kaplan ordered in that case that the government apprise the court of the status of that waiver. So I think we would propose the same thing here. We will keep the Court updated and we can take it as we see it.

THE COURT: I am happy to be updated. My understanding is in that case there was not ultimately a positive answer in time for trial, and therefore the government proceeded on those counts on which the defendant had been extradited.

MR. LENOW: I believe that's the case.

THE COURT: Mr. Ferrara, anything to add on this front?

MR. FERRARA: No. We think it is a violation of the rule of specialty.

THE COURT: Count Nine is.

MR. FERRARA: Yes. And it is one of the things we plan to move on. I would also say, if the government does seek a waiver, then we would like an opportunity to respond to Montenegro about that.

THE COURT: Well, given that the government is seeking a waiver from Montenegro, it doesn't feel like it's ripe to litigate before me because events may overtake any such motion.

MR. FERRARA: Your Honor, that's totally fair, and I am familiar with the idea of specialty being the other sovereign's right and not the defendant's. But that being said, I am not prepared to stand here and say that there's no cases that suggest that the defendant might have some rights around this. And for what it's worth, your Honor, we might want to do a broader motion on the irregularities of the extradition procedure in this particular case. I am not saying we will, but just in terms of fronting with the Court, it was a whiplash kind of back-and-forth situation and it may be that there is a broader motion.

THE COURT: I am on notice that that's under consideration.

Next issue, are there any foreign prosecutions of Mr. Kwon that have been initiated or just investigations bearing on the issues here, not bearing on the use of a bogus trial document?

MR. LENOW: Judge, I think it is public that there is an investigation and prosecution in South Korea.

THE COURT: Prosecution, not just investigation?

MR. LENOW: I don't have deep familiarity with the Korean legal system. My understanding is there are legal proceedings in that country that are criminal in nature. Whether you want to call it investigation or prosecution, I don't know which is the right term, but there are proceedings in which Mr. Kwon is --

THE COURT: A defendant.

Are there any implications for us to the fact that there is an open investigation or other proceeding abroad?

MR. LENOW: I don't know.

Judge, I should clarify, there were dueling extradition requests to Montenegro for Mr. Kwon from the United States and from South Korea. So I can infer from that that there was the equivalent of an arrest warrant or indictment in South Korea that formed the basis for that extradition request.

THE COURT: Can you see any way in which the presence of an unconsummated extradition request or other proceedings in, for example, South Korea has any implication for this case?

MR. LENOW: Judge, I personally don't see one. I am not an expert in this area so I don't want to get ahead of my skis.

THE COURT: Mr. Ferrara, any issue to spot there?

MR. FERRARA: Your Honor, I can see potential discovery issues. I simply don't know if the government has worked at all hand in glove with South Korea. I will also say we are going to propose some language for the protective order where I think, unfortunately, we are going to have to at times think about how Mr. Kwon's defense here will affect things for him in Korea, should he arrive there. So we are going to need to share some things with counsel there.

THE COURT: There may be some issue about what, if any, limits are put on the use of Rule 16 discovery in terms of other proceedings. There is nothing ripe for me to review, but that is an issue within this space. Thank you for catching that.

Next issue involves the SEC case. I am just eager to get counsel's initial take on this.

Mr. Lenow, in your letter you noted that, among the rulings that Judge Rakoff rendered in the SEC case, in which Mr. Kwon was a party, were, for example, rulings that four of Terraform's crypto assets were investment contracts, and hence securities. There were also coconspirator statements within the scope of the hearsay exclusion. To what degree, if you have given thought to this, is Mr. Kwon bound by rulings by Judge Rakoff where it is truly the same issue in this litigation?

MR. LENOW: Judge, I would like to give more thought

to that, but we at least wanted to flag it for the Court. Certainly, Judge Rakoff's rulings are, at the very least, persuasive authority to your Honor, and as you noted, we could conceive of situations where they were binding. There was a trial in that case so there were many, many rulings, including evidentiary rulings on various particular pieces of evidence. So I think one thing I want to be careful of is, I did not sit through that entire trial. I am familiar with some portions of it. What I propose is, if we could give some more thought to that, and the next time we are before your Honor we will be prepared to discuss it then.

THE COURT: It's way premature to brief that, but it's sitting right out there as an issue that I have no doubt we are going to be engaging with. So I would welcome counsel trying to get ahead of that and give some thought to how to think about those questions and whether the legal analysis differs, depending on the issue, and certain rulings are -- well, let me leave it at that. There may be a variety of different species of problems presented in this space. It's a new one on me because it's rare to have a criminal case where the defendant was a civil defendant in what amounts to a somewhat overlapping case. So new issue for me, spotting it for you, please think about it.

Mr. Ferrara, anything on that?

MR. FERRARA: No.

THE COURT: I am mindful that there is a lot of ferment in this district and elsewhere about, in the crypto world, what qualifies as a security. And just yesterday Judge Failla certified an interlocutory appeal in the *Coinbase* case to the Second Circuit on that very question.

To what degree is that developing body of law going to be a thing here?

MR. LENOW: Judge, I think there are a number of judges who have weighed in on this, and it's a complex question in some cases. But I would say, in this case, this is a scenario in which Mr. Kwon's company directly sold LUNA to investors on certain occasions. There are also exchanges in which people bought and sold the securities. But in order for our securities fraud claim to have validity, we would have to show that every transaction was a securities transaction.

I know a lot of the current litigation stems from various fact patterns, whether it's a primary seller, a secondary seller, a secondary market. I guess my point is, however you come out on that, our case is not going to rise or fall on those kind of complex legal issues that splice up the market. As long as there was a purchase or sale of a security, in connection with our fraud count, for example, a direct sale to a buyer, that is sufficient under the law. So I think a lot of the complexity won't be terribly complicated.

THE COURT: You see this as an easier case than some

of those others?

MR. LENOW: Yes, Judge.

THE COURT: I guess there is an issue conceptually in defining what the security is, to the extent that there is a securities fraud count in question, because there is a variety of tokens here and a variety of other vehicles, and it may be that, however it gets done, there needs to be clarity going into a trial as to what is alleged to be the security.

MR. LENOW: That does make sense. I don't think there is going to be a lack of clarity on that point going into this trial. And as your Honor noted, we need to look into the issue of whether there is a preclusive effect from Judge Rakoff's case. So that may kind of clear away some underbrush here. Certainly, it's an issue we are looking at, but I don't think it's going to be something that this case is going to rise or fall based upon the *Coinbase* appeal.

THE COURT: Mr. Ferrara, anything?

MR. FERRARA: I don't know if it will rise or fall on it, but I think we are going to have to figure out whether some of these are securities and understand exactly what the government is alleging about it.

THE COURT: And there will be a question of whether these are rulings that I can make pretrial.

MR. FERRARA: Agreed.

One of the tokens that we are talking about, the whole

idea was it would stay at one dollar. I think there will be things that we are going to have to talk about.

THE COURT: Again, something to focus on.

Next question is for the government. In looking at the indictment, it looked to me as if there are two different sets of substantive counts here, if you will. Counts Two, Three and Four deal with Chai, Mirror, Genesis, LFG, and they are, respectively, Count Two commodities, Count Three securities, and Count Four wire fraud. And then, symmetrically, Counts Six, Seven and Eight all involve the stablecoin peg issue, with Count Six being commodities fraud, Count Seven being securities fraud, and Count Eight being wire fraud.

Just to simplify the conversation, let's focus on the first set, Two, Three and Four. Do those essentially allege the same pattern of behavior and charge them just under different legal theories, or are those counts really addressed to different behavior?

MR. LENOW: There are a number of common themes. One is there were representations made to purchasers of LUNA and other Terraform cryptocurrencies that -- let me back up.

A common pitch was to point out various systems on the Terra blockchain; for example, e-mail, pictures and literature would say, we have Chai for payments, Mirror for investing, and so forth, and LFG adding this layer of stability. These are

all misrepresentations put out to investors in order to obtain, under false pretenses, investors' funds.

So, that is a broader version kind of theme. And as I mentioned earlier, there are variations of a theme. Both Chai and Mirror, for example, we allege that these behind-the-scene machinations that keep these systems afloat operating as false advertisement was to use the Genesis coins to fund them.

THE COURT: I understand that there are different theories of fraud that underlie Counts Two, Three and Four. I guess where I am going is, unless a particular, say, token can be both a security and a commodity, if these accounts are essentially aimed at the same bucket of behavior, I am trying to understand whether they are mutually exclusive or not.

MR. LENOW: Sorry, Judge. I misunderstood the question.

LUNA, for example, we allege to be a security. Judge Rakoff also found it was a security. It was a common way of doing business for investors to provide Bitcoin or another cryptocurrency. Bitcoin I think is widely acknowledged as being a commodity. Investors gave Bitcoin over in exchange for LUNA as one example. That was both, as we allege, commodities and securities fraud because individuals were defrauded of their commodity Bitcoin in exchange for a security LUNA. So the same transaction. There was a commodity being exchanged for a security and that transaction is simultaneously both.

THE COURT: That answers my question. Obviously, this may or may not be ground for litigation, but it certainly at a minimum suggests, when we get to this point way down the road, a need for extreme clarity with a jury as to what differentiates the two counts beyond just the legal charge. What is alleged to be the commodity? What is alleged to be the security?

That's helpful. And I take it you would give a similar answer to Count Six, Seven and Eight?

MR. LENOW: I think a broader point to make is, a number of these SEC cases, some of the stand-alone allegations are that X is a security, Y is a security. That's not this case. Unlike a lot of these civil litigations involving the SEC, all of our active counts, for the money laundering count, are fraud counts. And it doesn't have to be for LUNA or UST, either one would satisfy in our view the security requirement. It can be a transaction where LUNA is directly sold to an investor; it can be a transaction of a secondary exchange.

My point is we anticipate, when we ask for a jury verdict in this case, it's going to be guilty or not guilty, and there will be multiple potential ways in which --

THE COURT: It's multidimensional.

MR. LENOW: We don't need a finding that both UST and LUNA are securities, or that Tether and Bitcoin are commodities. This distinguishes this case from a lot of civil

litigations where there is a request for a finding of liability on an unregistered security and they list out each security. That is not the nature of this litigation.

THE COURT: And a related question. Putting aside the possibility of somebody who might be an expert in the sense of just giving guidance to the jury about a world of commerce that they are unfamiliar with, is this a case in which you expect the government's case to involve expertise?

MR. LENOW: Yes.

THE COURT: What would be the nature?

MR. LENOW: There are a number of potential bodies of expert testimony. One is market analysis, in other words, analysis of markets and opinions on how certain trading affected the market and prices in the market. That's one. Another potential area for expert testimony would bear on the technical operation of the blockchain, Terra blockchain, blockchain technology, in some of these programs. I think it can potentially be covered by just a fact witness, like an investor who could explain the technology. But it's possible we would also seek to call an expert, just to opine as an expert.

So those are two areas that I foresee. There may be others, but I think -- certainly at the SEC case, both sides did seek to introduce expert testimony and ultimately Judge Rakoff did allow some expert testimony, including on market

operation.

THE COURT: I am just putting this out there. I expect that I am going today to set a trial date, hearing both of you as to your views. But one of the things I will want you to be thinking about afterwards so that we can put something in place, presumably at the second conference, is reverse-engineering the schedule from there, including giving due time for expert disclosures.

Mr. Ferrara, any thoughts on this space?

MR. FERRARA: Not on experts. But your Honor also covered the counts in the indictment. I just want to flag again motion practice. We would call it multiplicitous.

THE COURT: Multiplicity meaning one count that embeds multiple legal theories.

MR. FERRARA: Multiple counts that embed one.

So, Mr. Kwon, we are ratcheting up his sentencing exposure based on the exact same conduct. And I understand the same course of conduct can be charged multiple ways. But here, if it's a security, then we don't need the commodities fraud count. It's not fair to say that, as to Chai, there's three different ways, because it's a security, a commodity, and it's also a wire fraud, and we therefore are going to ratchet up that punishment. That would be inappropriate.

THE COURT: So the motion you're anticipating is not that a particular count embeds multiple crimes, that would be

duplicity, but that multiple counts effectively replicate each other, which would be multiplicity.

MR. FERRARA: I don't want to cut myself off on duplicity. But what I am flagging for your Honor is, yes, we essentially have three counts that charge the exact same thing, and that is inappropriately ratcheting up.

THE COURT: You heard Mr. Lenow's assessment that a course of conduct can check both boxes because it, for example, implicates both a security and a commodity.

MR. FERRARA: I understand his point. I think the government probably charged it this way because they didn't know which way the Court was going to come out on whether it's a security or not. We may have to argue it.

THE COURT: Point taken.

Next issue is just pretrial motions that I can expect other than the garden variety coconspirator exclusion under hearsay, standard motions *in limine*. I am hearing issues potentially sounding in multiplicity. I am hearing a potential issue with respect to Count Nine and extradition and perhaps something broader on that.

Mr. Ferrara.

MR. FERRARA: Suppression maybe based on overseas conduct. I think, your Honor, that we may have other motions regarding the way this indictment is put together. I think there might be surplusage here, potential motions to strike

portions of this indictment. There might be issues around the jury pool.

THE COURT: What is the issue with respect to the jury pool?

MR. FERRARA: I think the government has put into this indictment certain allegations that it is trying to help itself get in -- by putting it in this indictment, it wants to get into trial and in front of the public. Some of the stuff in here about what Mr. Kwon did after he maybe understood -- the idea that he was in flight, he was on the lam, he had fake passports, all of that.

THE COURT: That sounds like a motion *in limine*.

MR. FERRARA: It might be, your Honor, but I don't think it should be in this indictment. Judge Rakoff kept it out of our trial in front of the SEC on 403 grounds.

THE COURT: That sounds like a motion *in limine* that he may have granted. Perhaps it was consented to.

The issue is whether, independent of the usual vehicle in which we would litigate that, which would be under the rules of evidence, whether there is a value in flyspecking the indictment for this purpose. There is a separate issue about whether speaking indictments go into a jury room. That's a distinct issue from whether there is some value in having litigation about whether to redact or excise a sentence, a paragraph from the indictment. There's a real question in my

mind about what practical value is served by that exercise, except as a precursor to a motion *in limine*.

MR. FERRARA: Understood, your Honor. I would like to look at it more closely. I do think some of the allegations here really are sort of obvious 403 stuff that is publicly prejudicial to Mr. Kwon.

THE COURT: Look, this is early days, it's the first conference. I am merely putting a note out there that, to my mind, something of that nature, the real issue is making sure that the jury doesn't hear evidence that isn't admissible. But litigating it before me feels a little bit like the situation we have of somebody who chooses to litigate a defamation case. You may be drawing much more attention to an allegation by the litigation than the value you're getting by prevailing. In this case you're not going to get any damages and so what the value would be of excising that is lost to me.

MR. FERRARA: Fair enough, your Honor. I am not going to waste the Court's time. It's important to us that your Honor has what we think is the right set of information in front of you. The government writes a letter and it has its allegations in the indictment, and we think it's important that your Honor understands our perspective.

THE COURT: I appreciate that. I am always delighted to review an interesting motion, but I also would like the motions practice here to be about things that are real.

MR. FERRARA: I am just trying to give my best sense, sort of a week into reviewing this indictment, of where we might even go. Obviously, your Honor, I am sure you are not going to see half of the things I am talking about.

THE COURT: That's great.

MR. FERRARA: There might be some discovery motions that we want to make here given the number of different -- there are different foreign entities that went into this. I already talked about witness statements a little bit. The joint versus parallel nature. I understand everyone is using the word parallel. We might see it differently.

THE COURT: You might be trying to develop an argument that the government is working in conjunction with some foreign sovereignty and the SEC in the way that they did not.

MR. FERRARA: Something along those lines.

THE COURT: Very helpful. Premature to set any dates for any of that.

We are now at the point in my sequence of setting a trial date.

Mr. Ferrara, let me turn to you because a lot of this is going to be dictated by your capacity to make sense of the discovery here and to work with your client. What is your view?

MR. FERRARA: On the timeline?

THE COURT: We will worry about the intermediate

dates. From your perspective, when should we have this trial?

MR. FERRARA: I don't think we should have this trial any sooner than winter of 2026.

THE COURT: Meaning December-January.

MR. FERRARA: December is fall timeline. December 21st usually is where we click over.

THE COURT: You're not proposing that as the trial date.

MR. FERRARA: No. We would ask for at least a year on this, your Honor.

THE COURT: I want to set a date now that we can all commit to, because this is a big-deal case, we have got a lot of lawyers, it's likely to be a long trial. My experience is that, in cases where I am dealing with heavy-duty scheduling challenges, there is a huge value in locking everybody in early to the date. But I also don't want to choose a date that is unrealistic. So I want to listen to you.

You are proposing to me that we schedule this effectively in January of 2026.

MR. FERRARA: Given what your Honor just said, I would ask for maybe early spring. I see your Honor's body language. The challenges here, your Honor, in addition to everything you heard about what the discovery is, we have to work in connection with foreign counsel; we might be making motions about trying to get discovery from foreign entities; we are

also in the middle of a bankruptcy proceeding and trying to resolve Judge Rakoff's settlement order imposed in the SEC case.

THE COURT: There is no appeal of his case; you settled at the end of the day on damages after his liability determination.

MR. FERRARA: There is no appeal, but we are still trying to sort out getting that settlement taken care of. And all of these things require us to be saying to ourselves, how does each piece fit together -- if we do this or say this, counsel in Korea, how does that affect what is happening there? Bankruptcy counsel, is this something that is going to be a problem in terms of resolving a settlement?

THE COURT: What was the window of time between the first conference and the trial in *Bankman-Fried*? I think it was a good deal shorter than that.

Mr. Lenow, how long is the trial apt to be?

MR. LENOW: Our estimate would be four to six weeks. Obviously, we don't have a window into a possible defense case, but that's our best estimate.

THE COURT: That is making an assumption about the defense case or that's independent of the defense case but including everything else?

MR. LENOW: We would try to have our case in in four weeks. So I think six weeks would provide a week for a

defense, a week for deliberations. So I think we would say six weeks. It might be good to block eight weeks at the outside.

THE COURT: What is your view on the trial date?

MR. LENOW: We are prepared to go to trial on whatever timeline your Honor requests. A year does not seem unreasonable to me in light of the complexity of the volume of discovery here. Whether that's January or March, I am not sure that we have a significant opinion on that, that one or the other is more appropriate. I think our bottom line is we don't see the defense request as unreasonable. Anytime within that January to spring time frame would seem reasonable to us.

THE COURT: Counsel, I can't remember a time in which I have set a trial a year out, but I can't imagine a better candidate for a trial a year out than this one given everything I have heard. And I am acutely aware that I have seasoned counsel who are internalizing, no doubt, Mr. Ferrara, your client's liberty interest here. Your client has been in custody for 22 months, and barring a change of events, he is going to be in custody through the end of this trial. And so, I take it, when you're asking that I put this off a year, you're doing so mindful that you are presumptively dictating your client's being in custody for that period of time plus the length of the trial. Without prejudice to your making some motion, you have to be operating on the assumption that his detention remains.

MR. FERRARA: Without prejudice, yes, your Honor, we understand. And, unfortunately, Mr. Kwon has some other problems that are happening overseas, and I think it would be more prejudicial to him to rush this than it would be for him to unfortunately have to spend more time in custody here.

THE COURT: Is this a conversation you have had with him? I don't want you to tell me about the content of it, but in asking me to set a trial a year from now, or your request is even more than that, but around that, are you doing so with your client's informed consent?

MR. FERRARA: Mr. Kwon and I certainly have discussed things like the timeline here. But, candidly, we are just hearing about a lot of the discovery. We are all digesting everything we just heard, and when your Honor then says to me, what's your view on a trial date, it's based on everything I have just heard here, and obviously Mr. Kwon is hearing it at the same time. So, no, we have not discussed everything we have heard.

THE COURT: I came here with a range of menu options on my schedule, which included one significantly earlier than this, and I was certainly prepared to try this right after Labor Day if I had been asked to do that. But I am inclined to defer to your judgment within reason and to set this down for late January next year, which is essentially consistent with your request, albeit somewhat on the earlier end of the window

you have given me. But I want to set that down as a firm date. I also want you to speak to Mr. Kwon because if, after speaking with him, he wants the trial earlier and you're persuaded to back off your suggestion, I want to know that now so that we can move this to October or something like that.

So, let us do this. Let us put this down for January the 26th. It's not going to move any later. You understand that?

MR. FERRARA: I do.

THE COURT: That is a firm outside trial date. The only possibility is that it would move earlier, and that would be based on your having an opportunity to take some time with your client and internalize his views on the point. But I don't want to deny you that opportunity. I am mindful the one thing you haven't had an opportunity to do is to confer in a serene way with your client, taking in everything you have heard today.

MR. FERRARA: Yes. Thank you, your Honor.

THE COURT: Before we move off this, does anybody have a problem if I set this down for a trial of approximately the length estimated, it could go eight weeks, I'm told, but four to six sounds pretty likely, beginning on January 26.

Government.

MR. LENOW: No objection.

MR. FERRARA: No objection.

THE COURT: Ms. Ravener, the same?

MS. RAVENER: Yes, your Honor.

THE COURT: Mr. Ferrara, same?

MR. FERRARA: Yes.

THE COURT: Within one week, if Mr. Kwon has persuaded you to push for an earlier date, I want a letter to that effect. If that happens, I will likely bring you all in here for the limited purpose of changing the trial date. But if I don't hear from you within one week from today, the ship has sailed and we are down for January 26.

MR. FERRARA: Understood.

THE COURT: With that, let me set a next conference date. Here is what I propose we do. I would like to set a conference date about eight weeks from now, and I would like to have a discovery update from the government about a week before. That way I will be savvy to the state of play with respect to discovery when we gather about eight weeks from now.

I would also, though, welcome seasoned counsel, now that we have had this conference ventilating all these issues, to speak candidly together about the way this story is going to unfold. There are a lot of potential motions out there. There are a lot that have an obvious capability of being withdrawn or mooted. And there is a sequencing issue that you all in the first instance may be better to tackle than I. So rather than my dictating a bunch of dates, I'd rather, now that we have a

framework of the trial date in hand, leave it to thoughtful counsel to build an edifice around that.

What I propose, therefore, is that also a week before the trial date I get a letter from counsel setting out hopefully an agreement, but if not, your alternative views, about the sequencing of all the various things we have got going here. My hope, counsel, as well is that you will do your best to moot some of these issues. There may be issues that, in effect, involve arguable Jencks Act material that the government may draw the conclusion, it's just not worth litigating, let's get that produced. I will leave it to all of your judgment. But to the extent you're able to moot some of these issues, you are not going to meet with unhappiness from me.

With that, how about if we meet at Thursday, March 6, at 11:00?

MR. LENOW: That works for the government, Judge.

THE COURT: Defense, does that work for you?

MR. FERRARA: I am sure that among the team we will be able to make that work, your Honor.

THE COURT: Let's then meet Thursday, March 6, at 11:00. And a week before then, on February 27, I would like either one letter or two, but essentially dealing with two topics. One is the state of discovery and the other is the parties' hopefully joint, but if not, partially joint and

partially discordant views as to the schedule. But please think about all of the issues we have covered today and try to think about a rational mousetrap here. Again, when I have great lawyers in front of me, and I don't use the word ill-advisedly, this process works best because you're able to think, with all the benefit of your experience, as to what the journey is going to be like from here and what the rational sequencing is, for example, of issues. So I am tasking you to do a little bit of my job for me and think about the rational sequence.

With that, is there an application to exclude time until March the 6th?

MR. LENOW: Yes, Judge. In order to allow the government to produce discovery, the defense to review discovery, and for the parties to have productive discussions about the various logistical issues flagged by the Court.

MR. FERRARA: Without objection.

THE COURT: I will exclude time between today and March the 6th pursuant to Title 18, United States Code, Section 3161(h)(7)(A). I find that the interests of justice outweigh the interests of the defense and the public in a speedy trial. It should be obvious why that is so. The volume of discovery here, if not unprecedented, is unprecedented in any case before me. It's challenging in its scale and its variety and its multiple languages. The presence of foreign sovereigns is out

there as an issue. The interplay with a prior civil case in which the defendant was a party presents issues. There are a host of legal issues to be hashed about. And the last thing I want is for Mr. Kwon and his counsel's ability to engage with all these issues and make sense of the discovery to be pressured by an expiring speedy trial clock. So, for all those reasons, I will exclude the time between now and March 6.

I will also make a point that I would make in any case. This is not key to Mr. Kwon's case. While the case certainly presents as one that is destined to go to trial, in every case, counsel are well advised to discuss whether there is an off-ramp and whether there is a basis for a disposition. I strongly encourage defense counsel and the government to have those conversations and to do them early. Particularly, insofar as counsel have been informed by at least the experience of the case before Judge Rakoff, there may well be a basis for counsel to reach some form of an agreement. In any event, the excluded time is there as well to give you the breathing space to have those discussions.

Anything further from the government?

MR. LENOW: No, Judge. Thank you.

THE COURT: Anything further from the defense?

MR. FERRARA: No, thank you, your Honor.

THE COURT: Thank you for an incredibly informative and well-prepared conference. It's my pleasure to have you all

before me, and I look forward to seeing you on March 6.

We stand adjourned.

(Adjourned)